

Home health care. An exempt organization primarily providing health services to sick persons in their own homes under the direction of their private physicians and providing only incidental patient treatment at the organization's office, which is not equipped to serve as an outpatient facility on a continuing basis, does not qualify as a hospital as defined in section 170(b)(1)(A)(iii) of the Code.

Advice has been requested whether the nonprofit organization described below, which is exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, qualifies as a hospital within the meaning of section 170(b)(1)(A)(iii).

The organization was created to provide health services to the sick in their own homes. The services are provided under the direction of the patient's private physician, and include nursing and therapeutic services, medical social worker services, and physical and occupational therapy. While the patients occasionally come to the organization's office to receive injections as directed by their physician, this is only a small part of the organization's activities. Medical supplies such as dressings, catheters, syringes, wheelchairs, etc., are kept at the organization's office for use in rendering its services.

Section 170(b)(1)(A)(iii) of the Code describes an organization the principal purpose or functions of which are the providing of medical or hospital care or medical education or medical research, if the organization is a hospital.

Section 1.170A-9(c)(1) of the Income Tax Regulations provides that an organization is described in section 170(b)(1)(A)(iii) of the Code if (i) it is a hospital, and (ii) its principal purpose or function is the providing of medical or hospital care or medical education or research. An outpatient clinic may qualify as a 'hospital' if its principal purpose or function is the providing of hospital or medical care.

While the principal purpose of this organization is to provide medical care within the meaning of section 1.170A-9(c)(1)(ii) of the regulations, it is not a hospital within the meaning of section 1.170A-9(c)(1)(i). An organization primarily providing home health care on a visiting basis is not an outpatient clinic that qualifies as a hospital within the meaning of section 170(b)(1)(A)(iii) of the Code. Compare Rev. Rul. 73-131, 1973-1 C.B. 446, in which an organization providing outpatient health care services is held to be a nonprofit hospital referred to in section 170(b)(1)(A)(iii) for purposes of exemption from the communications tax imposed by section 4251. The organization described therein maintains a center equipped with examination and treatment rooms, dental operatories, emergency rooms, conference or consultation rooms, administrative offices, and a pharmacy, but without any facilities to house or maintain

patients overnight or to provide nonambulatory care. The organization in this case primarily provides home health care and only incidentally provides a place or facility for outpatient hospital or medical care.

Accordingly, the organization described above does not qualify as a hospital within the meaning of section 170(b)(1)(A)(iii) of the Code.